

AMENDED IN ASSEMBLY JANUARY 4, 2016

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## ASSEMBLY BILL

No. 1272

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**Introduced by Assembly Member Grove**

February 27, 2015

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An act to amend ~~Sections 6250 and 6251 of the Family Code, relating to protective orders. Section 1048.1 of, and to add Section 368.7 to, the Penal Code, relating to crimes.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 1272, as amended, Grove. ~~Protective orders: persons with developmental disabilities: sexual exploitation. Crimes against persons with disabilities, children, and elder and dependent adults.~~

*The Child Abuse and Neglect Reporting Act requires a law enforcement agency that receives a report of child abuse to report to an appropriate licensing agency every known or suspected instance of child abuse or neglect that occurs while the child is being cared for in a child day care facility or community care facility or that involves a licensed staff person of the facility.*

*Existing law provides for the licensure of various healing arts professionals, and specifies that the commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action against the licensee. Existing law also establishes that the crime of sexual exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse counselor has occurred when the licensee*

*engages in specified sexual acts with a patient, client, or former patient or client.*

*This bill would require, if a law enforcement agency has probable cause to believe that a person who holds a state professional or occupational credential, license, permit, or other authorization that allows the person to provide services to children, dependent adults, elders, or persons with disabilities and has committed specified crimes, the law enforcement agency to promptly send a copy of its report to the state licensing agency. The bill would require the licensing agency to promptly investigate the report and, if it substantiates the report, to take any action that it finds warranted. By imposing these additional duties on law enforcement agencies, this bill would impose a state-mandated local program.*

*Existing law requires a superior court to make reasonable efforts to avoid setting a trial for murder, sexual assault, child abuse, or a case being handled in the Career Criminal Prosecution Program on the same day that another case is set for trial involving the same prosecuting attorney.*

*This bill would expand this requirement to include a trial involving an alleged offense against a person with a developmental disability.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law authorizes a judicial officer to issue an ex parte emergency protective order when a law enforcement officer asserts reasonable grounds to believe, or the judicial officer finds, that a person is in immediate and present danger of domestic violence, a child is in immediate and present danger of abuse by a family or household member or may be abducted by a parent or relative, or an elder or dependant adult is in immediate and present danger of abuse, as specified.~~

~~This bill would also authorize a judicial officer to issue an ex parte emergency protective order when a law enforcement officer asserts reasonable grounds to believe, or the judicial officer finds, that a person with a developmental disability is in immediate and present danger of~~

~~sexual exploitation by a developmental disability residential service provider.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 368.7 is added to the Penal Code, to read:*  
2     *368.7. (a) When a law enforcement agency finds probable*  
3     *cause to believe that a person who holds a state professional or*  
4     *occupational credential, license, permit, or other authorization*  
5     *that allows the person to provide services to children, dependent*  
6     *adults, elders, or persons with disabilities has committed a crime*  
7     *under any of the following provisions of law, the law enforcement*  
8     *agency shall promptly send a copy of its report, including the*  
9     *finding of probable cause, to the state agency that issued the*  
10    *credential, license, permit, or other authorization:*  
11    *(1) Sexual exploitation by a physician and surgeon,*  
12    *psychotherapist, or drug or alcohol abuse counselor, as defined*  
13    *in Section 729 of the Business and Professions Code.*  
14    *(2) Rape or other crime as defined in Chapter 1 (commencing*  
15    *with Section 261) of Title 9 of Part 1.*  
16    *(3) Elder or dependent adult abuse, failure to report elder or*  
17    *dependent adult abuse, interfering with a report of elder or*  
18    *dependent adult abuse, or other crimes as defined in this chapter.*  
19    *(4) A hate crime motivated by antidisability bias, as defined in*  
20    *Chapter 1 (commencing with Section 422.55) of Title 11.6 of Part*  
21    *1.*  
22    *(5) Sexual abuse, as defined in Section 11165.1.*  
23    *(6) Child abuse, failure to report child abuse, or the interfering*  
24    *with the report of child abuse.*  
25    *(b) Notwithstanding any other law, a state agency receiving a*  
26    *report pursuant to this section shall promptly investigate the report*  
27    *and, if it substantiates the report, shall take any action that it finds*  
28    *warranted, which may include revoking the credential, license,*  
29    *permit, or other authorization. The state agency shall cooperate*  
30    *with the law enforcement agency and any prosecuting attorney to*  
31    *avoid jeopardizing any criminal investigation or prosecution.*  
32    *SEC. 2. Section 1048.1 of the Penal Code is amended to read:*

1 1048.1. (a) In scheduling a trial date at an arraignment in  
2 superior court involving ~~murder~~, *any of the following offenses*,  
3 *reasonable efforts shall be made to avoid setting that trial, when*  
4 *that case is assigned to a particular prosecuting attorney, on the*  
5 *same day that another case is set for trial involving the same*  
6 *prosecuting attorney:*

7 (1) ~~Murder~~, as defined in subdivision (a) of Section ~~187~~, ~~an~~  
8 ~~187~~.

9 (2) ~~An~~ alleged sexual assault offense, as described in  
10 subdivisions (a) and (b) of Section ~~11165.1~~, ~~or an~~ *11165.1*.

11 (3) ~~An~~ alleged child abuse offense, as described in Section  
12 ~~11165.6~~, ~~or a~~ *11165.6*.

13 (4) A case being handled in the Career Criminal Prosecution  
14 Program pursuant to ~~Sections 999b through 999h~~, *reasonable*  
15 *efforts shall be made to avoid setting that trial, when that case is*  
16 *assigned to a particular prosecuting attorney, on the same day that*  
17 *another case is set for trial involving the same prosecuting attorney.*  
18 *Chapter 2.2 (commencing with Section 999b).*

19 (5) ~~An~~ alleged offense against a person with a developmental  
20 disability.

21 (b) *For purposes of this section, “developmental disability”*  
22 *has the same meaning as found in Section 4512 of the Welfare and*  
23 *Institutions Code.*

24 SEC. 3. *If the Commission on State Mandates determines that*  
25 *this act contains costs mandated by the state, reimbursement to*  
26 *local agencies and school districts for those costs shall be made*  
27 *pursuant to Part 7 (commencing with Section 17500) of Division*  
28 *4 of Title 2 of the Government Code.*

29 SECTION 1. ~~Section 6250 of the Family Code is amended to~~  
30 ~~read:~~

31 ~~6250. A judicial officer may issue an ex parte emergency~~  
32 ~~protective order if a law enforcement officer asserts reasonable~~  
33 ~~grounds to believe any of the following:~~

34 (a) ~~That a person is in immediate and present danger of domestic~~  
35 ~~violence, based on the person’s allegation of a recent incident of~~  
36 ~~abuse or threat of abuse by the person against whom the order is~~  
37 ~~sought.~~

38 (b) ~~That a child is in immediate and present danger of abuse by~~  
39 ~~a family or household member, based on an allegation of a recent~~

1 incident of abuse or threat of abuse by the family or household  
2 member.

3 (e) That a child is in immediate and present danger of being  
4 abducted by a parent or relative, based on a reasonable belief that  
5 a person has an intent to abduct the child or flee with the child  
6 from the jurisdiction or based on an allegation of a recent threat  
7 to abduct the child or flee with the child from the jurisdiction.

8 (d) That an elder or dependent adult is in immediate and present  
9 danger of abuse as defined in Section 15610.07 of the Welfare and  
10 Institutions Code, based on an allegation of a recent incident of  
11 abuse or threat of abuse by the person against whom the order is  
12 sought, except that no emergency protective order shall be issued  
13 based solely on an allegation of financial abuse.

14 (e) That a person with a developmental disability, as defined in  
15 Section 4512 of the Welfare and Institutions Code, is in immediate  
16 and present danger of sexual exploitation by a developmental  
17 disability residential service provider.

18 SEC. 2. Section 6251 of the Family Code is amended to read:

19 6251. An emergency protective order may be issued only if  
20 the judicial officer finds both of the following:

21 (a) That reasonable grounds have been asserted to believe that  
22 an immediate and present danger of domestic violence exists, that  
23 a child is in immediate and present danger of abuse or abduction,  
24 that an elder or dependent adult is in immediate and present danger  
25 of abuse as defined in Section 15610.07 of the Welfare and  
26 Institutions Code, or that a person with a developmental disability  
27 is in immediate and present danger of sexual exploitation by a  
28 developmental disability residential service provider.

29 (b) That an emergency protective order is necessary to prevent  
30 the occurrence or recurrence of domestic violence, child abuse,  
31 child abduction, abuse of an elder or dependent adult, or sexual  
32 exploitation of a person with a developmental disability.